

# United States Department of the Interior

U.S. Fish and Wildlife Service

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In Reply Refer To:

AESO/SE

May 2, 2002

Dear Interested Party:

As you may be aware, the southwestern willow flycatcher (*Empidonax traillii extimus*) was listed as endangered, without critical habitat, on February 25, 1995. Critical habitat was later designated on July 22, 1997 (Federal Register Vol. 62 No. 140). On August 20, 1997, a correction notice was published in the Federal Register to clarify the lateral extent of the designation (Federal Register Vol. 62, No. 161). On May 11, 2001, the 10<sup>th</sup> Circuit Court of Appeals set aside the southwestern willow flycatcher critical habitat designation and instructed the Service to issue a new critical habitat designation in compliance with the court's ruling. Therefore, in compliance with the court's order, we are in the process of re-proposing critical habitat for the flycatcher.

When critical habitat for the flycatcher was first designated in 1997, we included 18 critical habitat units totaling 599 river miles in California, Arizona and New Mexico (see enclosed map from original designation; the entire 1997 published designation from the Federal Register is available on the web at: [arizonaes.fws.gov/documents/documentsbyspecies/southwesternwillowflycatcher/wiflcriticalhabitat.pdf](http://arizonaes.fws.gov/documents/documentsbyspecies/southwesternwillowflycatcher/wiflcriticalhabitat.pdf)). Since that time we have documented territorial flycatchers in several additional areas in these three states, as well as in southern Nevada, southern Utah, and southwestern Colorado (see enclosed map from draft Recovery Plan; the entire Recovery Plan and more detailed maps are available on the web at: [arizonaes.fws.gov/SWWFdraftrecplan.htm](http://arizonaes.fws.gov/SWWFdraftrecplan.htm)).

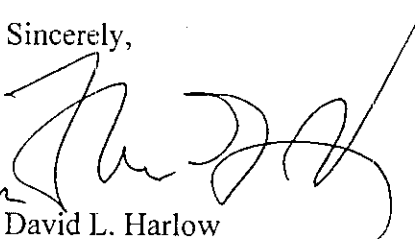
We are contacting you to solicit your ideas on what discrete geographic areas you are aware of that you believe are essential for the conservation of this species or why any of the previously designated areas are no longer essential. Please provide as detailed a description as possible of these areas including maps, descriptive beginning and ending points such as roads and tributaries, and legal descriptions, if known. We are also requesting that you provide information (published or unpublished) on why the areas you identify are important (or are no longer important) for the conservation of this species and if and when these areas were known to be occupied by flycatchers. Specifically, please tell us what these areas provide (or no longer provide) in the way of important breeding, feeding, dispersal and migratory habitat that are essential to the conservation of this species.

We are also interested in obtaining copies of any draft or final management plans, Habitat Conservation Plans, or other agreements that you are aware of that may provide special management and potentially preclude the need to designate certain areas as critical habitat for this species.

Previously, we limited the area of critical habitat to areas within 100 meters of the edge of areas with surface water during the May to September breeding season and within 100 meters of areas where such surface water no longer exists owing to habitat degradation but may recover with habitat rehabilitation. The Service now recognizes that criteria that incorporate the dynamic nature of riparian areas, such as the 100-year flood plain, may be more appropriate and would like to take this into consideration during the upcoming proposal and we welcome your comments on this issue as well.

Thank you for your assistance in providing this information to us by June 14, 2002. We anticipate having a proposal for critical habitat published and available for review within the next 12 months. If you have any questions about this request, please contact Greg Beatty (x247) or Tom Gatz (x240).

Sincerely,

  
For David L. Harlow  
Field Supervisor

Enclosures (2)

cc: Regional Director, Fish and Wildlife Service, Albuquerque, NM  
(ARD-ES; Attn: Susan Jacobsen)

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stands or irregularly-shaped mosaics of dense vegetation with open areas. The size of vegetation patches or habitat mosaics used by southwestern willow flycatchers varies considerably and ranges from as small as 0.8 hectares (2 acres) to several hundred hectares. However, narrow linear riparian patches only one to two trees deep that have no potential (absent limiting factors) to increase in depth are not considered breeding habitat, although they may be used by southwestern willow flycatchers during migration.

A total of approximately 964 km (599 miles) of stream and river are being designated as critical habitat. The areas described were chosen for critical habitat designation because they contain the remaining known southwestern willow flycatcher nesting sites, and/or

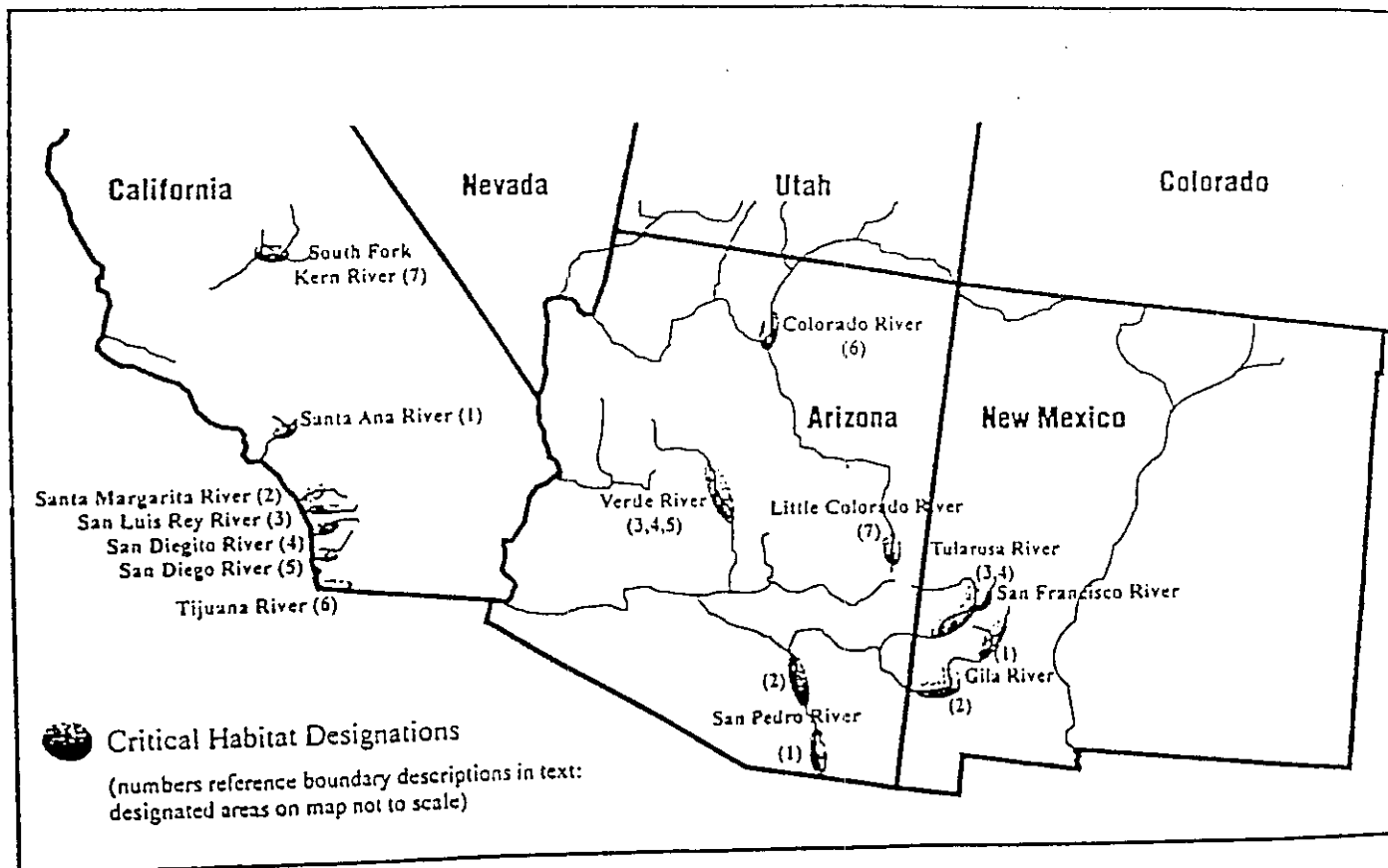
formerly supported nesting southwestern willow flycatchers, and/or have the potential to support nesting southwestern willow flycatchers. All areas contain or with restoration will contain suitable nesting habitat in a patchy, discontinuous distribution. This distribution is partially the result of natural regeneration patterns of riparian vegetation (e.g. cottonwood-willow). The distribution of these habitat patches is expected to shift over time. Because of this spatial and temporal distribution of habitat patches, it is important that the entirety of the proposed river reaches be considered critical habitat. All areas contain some unoccupied habitat or former (degraded) habitat, needed to recover ecosystem integrity and support larger southwestern willow flycatcher numbers during the species'

recovery. A number of separate, protected, healthy populations of southwestern willow flycatchers are needed to protect the species from extinction by functioning as population sources (Pulliam 1988). Protection of this proposed critical habitat should ensure sufficient quantity and quality of habitat to stabilize and recover this species. The southwestern willow flycatcher is already extirpated from a significant portion of its former range.

Critical habitat for the southwestern willow flycatcher will include riparian areas within the 100-year floodplain along streams and rivers in southern California, Arizona, and New Mexico (Figure 1). Descriptions and maps of each area are located in this rule under "Regulation Promulgation."

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Figure 1. Location of critical habitat areas designated for the southwestern willow flycatcher.



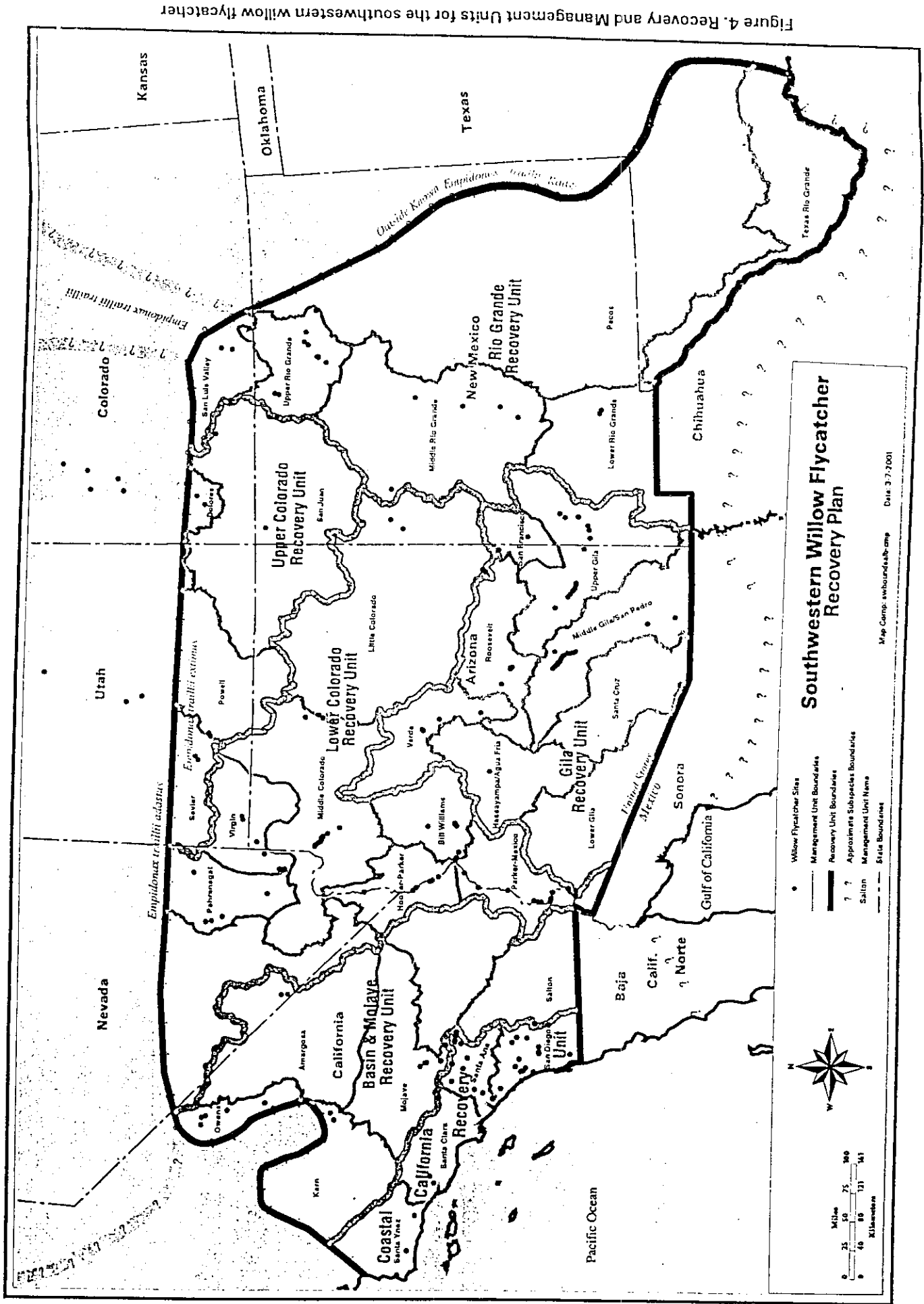


Figure 4. Recovery and Management Units for the southwestern willow flycatcher